

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part XIV. (See end of Document for details)

SCHEDULES

SCHEDULE 6

CLIMATE CHANGE LEVY

PART XIV

INTERPRETATION

General

147 In this Schedule—

“accounting period” means a period which, in pursuance of any regulations under paragraph 41, is an accounting period for the purposes of the levy;

“agreement” includes any arrangement or understanding (whether or not legally enforceable), and cognate expressions shall be construed accordingly;

“appeal tribunal” means [^{F1}the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal;];

“auto-generator” has the meaning given by paragraph 152;

“climate change agreement” has the meaning given by paragraph 46;

“climate change levy accounting document” has the meaning given by paragraph 143(2);

“combined heat and power station” has the meaning given by paragraph 148(1);

“the Commissioners” means the Commissioners of Customs and Excise;

“conduct” includes acts and omissions;

“electricity utility” has the meaning given by paragraph 150(2) (but see paragraph 150(4));

“fully exempt combined heat and power station” has the meaning given by paragraph 148(2);

“gas utility” has the meaning given by paragraph 150(3) (but see paragraph 150(4));

[^{F2}“HMRC” means Her Majesty’s Revenue and Customs;]

^{F3}
.....

“member”, in relation to a group, shall be construed in accordance with regulations under paragraph 116;

“non-resident taxpayer” means a person who—

- (a) is or is required to be registered for the purposes of the levy, and
- (b) is not resident in the United Kingdom;

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“partly exempt combined heat and power station” has the meaning given by paragraph 148(3);

“prescribed” (except in paragraphs 14(3), 16(3)^{F4}, 18A] and 148(4)) means prescribed by regulations made by the Commissioners under this Schedule;

“produced”—

(a) in relation to electricity, means generated, and

(b) in relation to any other commodity, includes extracted;

“reduced-rate supply” has the meaning given by paragraph ^{F5}44(1)] (which, by virtue of paragraph ^{F6}44(2)], has effect subject to paragraph 45);

“registered” means registered in the register maintained under paragraph 53(2);

“representative member”, in relation to a group, shall be construed in accordance with regulations under paragraph 116;

“resident in the United Kingdom” has the meaning given by paragraph 156;

“ship” includes hovercraft;

“special utility scheme” has the meaning given by paragraph 29(1);

“subordinate legislation” has the same meaning as in the ^{M1}Interpretation Act 1978;

“supply for charity use” shall be construed in accordance with paragraph 8;

“supply for domestic use” shall be construed in accordance with paragraphs 8 and 9;

“tax credit” means a tax credit for which provision is made by tax credit regulations;

“tax credit regulations” means regulations under paragraph 62;

“tax representative”, in relation to any person, means the person who, in accordance with any regulations under paragraph 114, is for the time being that person’s tax representative for the purposes of the levy;

“taxable commodity” shall be construed in accordance with paragraph 3;

“taxable supply” shall be construed in accordance with paragraphs 2(2) and 4;

“the United Kingdom” includes the territorial waters adjacent to any part of the United Kingdom;

“utility” has the meaning given by paragraph 150(1).

Textual Amendments

- F1** Words in Sch. 6 para. 147 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 292(2)**
- F2** Words in Sch. 6 para. 147 inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 292(3)**
- F3** Words in Sch. 6 para. 147 repealed (1.11.2007) by [Finance Act 2006 \(c. 25\)](#), s. 172(15)(16), **Sch. 26 Pt. 8(1)**; [S.I. 2007/2901](#), art. 2(1) (with art. 2(2)-(4))
- F4** Word in Sch. 6 para. 147 inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 188(2)(d)
- F5** Word in Sch. 6 para. 147 substituted (1.11.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 2 paras. 10(a)**, 13(1); [S.I. 2007/2902](#), art. 2(1) (with art. 2(2)(4))

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F6 Word in Sch. 6 para. 147 substituted (1.11.2007) by Finance Act 2007 (c. 11), Sch. 2 paras. 10(b), 13(1); S.I. 2007/2902, art. 2(1) (with art. 2(2)(4))

Marginal Citations

M1 1978 c. 30.

Meaning of “combined heat and power station” etc.

- 148 (1) In this Schedule “combined heat and power station” means a station producing electricity or motive power that is (or may be) operated for purposes including the supply to any premises of—
- (a) heat produced in association with electricity or motive power, or
 - (b) steam produced from, or air or water heated by, such heat.
- (2) In this Schedule “fully exempt combined heat and power station” means a combined heat and power station in respect of which there is in force a certificate (a “full-exemption certificate”)—
- (a) given by the Secretary of State,
 - (b) stating that the station is a fully exempt combined heat and power station for the purposes of the levy, and
 - (c) [^{F7}complying (so far as applicable) with] any provision made by regulations under sub-paragraph (10).
- (3) In this Schedule “partly exempt combined heat and power station” means a combined heat and power station in respect of which there is in force a certificate (a “part-exemption certificate”)—
- (a) given by the Secretary of State,
 - (b) stating that the station is a partly exempt combined heat and power station for the purposes of the levy, and
 - (c) [^{F8}complying (so far as applicable) with] any provision made by regulations under sub-paragraph (10).
- (4) The Secretary of State shall give a full-exemption certificate in respect of a combined heat and power station where—
- (a) an application is made for a certificate under this paragraph in respect of the station, and
 - (b) it appears to him that such conditions as may be prescribed are satisfied in relation to the station.
- For this purpose “prescribed” means prescribed by regulations made by the Treasury.
- (5) The Secretary of State shall give a part-exemption certificate in respect of a combined heat and power station where—
- (a) an application is made for a certificate under this paragraph in respect of the station, and
 - (b) his decision on the application is to refuse to give a full-exemption certificate.

^{F9}(6)

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- (7) In prescribing conditions under sub-paragraph (4), the Treasury must have regard to the object of securing that a combined heat and power station will only be a fully exempt combined heat and power station for the purposes of this Schedule if it is one in which electricity or motive power is produced concurrently with heat in a manner that makes efficient use of the commodities used in their production.
- (8) A condition prescribed under sub-paragraph (4) may, in particular, relate to any of the following—
- (a) a station's outputs;
 - (b) the commodities used in the production of such outputs;
 - (c) the methods of producing such outputs;
 - (d) the efficiency with which such outputs are produced.
- (9) For the purposes of sub-paragraph (8), a station's "outputs" are any electricity or motive power produced in the station and any of the following supplied from the station, namely—
- (a) heat or steam, or
 - (b) air, or water, that has been heated or cooled.
- (10) The Secretary of State may by regulations make provision for or about—
- (a) certificates under this paragraph;
 - (b) applications for such certificates;
 - (c) the information that is to accompany such applications.
- (11) The provision that may be made by virtue of sub-paragraph (10)(a) includes in particular—
- (a) provision in respect of the periods for which certificates under this paragraph are to be in force;
 - (b) provision for the (non-retrospective) variation or revocation of such certificates.

Textual Amendments

- F7** Words in Sch. 6 para. 148(2)(c) substituted (22.7.2005, with effect in accordance with s. 189(5) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 189\(3\)\(a\)](#); S.I. 2005/1713, art. 2
- F8** Words in Sch. 6 para. 148(3)(c) substituted (22.7.2005, with effect in accordance with s. 189(5) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 189\(3\)\(a\)](#); S.I. 2005/1713, art. 2
- F9** Sch. 6 para. 148(6) repealed (22.7.2005, with effect in accordance with s. 189(5) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 189\(3\)\(b\)](#), [Sch. 43 Pt. 4\(2\)](#); S.I. 2005/1713, art. 2

Determination of efficiency percentages for combined heat and power stations

- 149 (1) The Treasury may by regulations make provision for determining ^{F10}... the efficiency percentage for a combined heat and power station.
- (2) Regulations under this paragraph may, in particular, include—
- (a) provision in respect of methods of calculating efficiency percentages;
 - (b) provision in respect of the measurements and data to be used in calculating such percentages;
 - (c) provision in respect of the procedures for determining such percentages;

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- (d) provision in respect of verifying—
 - (i) calculations by which such percentages are produced, and
 - (ii) measurements and data used in such calculations;
 - (e) provision that, so far as framed by reference to any document, is framed by reference to that document as from time to time in force.
- (3) In making provision under this paragraph, the Treasury must have regard to the object of securing that the efficiency percentage for a combined heat and power station is (save for any appropriate adjustments) a percentage that reflects a fair assessment of the efficiency with which commodities are transformed in the station into electricity or motive power.

Textual Amendments

F10 Words in Sch. 6 para. 149(1) repealed (22.7.2005, with effect in accordance with s. 189(5) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), s. 189(4), [Sch. 43 Pt. 4\(2\)](#); [S.I. 2005/1713](#), art. 2

^{F11}[Certification of electricity from fully or partly exempt combined heat and power station

Textual Amendments

F11 Sch. 6 para. 149A inserted (24.7.2002) by [2002 c. 23](#), s. 124

- 149A (1) The Commissioners may by regulations make provision for the Gas and Electricity Markets Authority, or the Director General of Electricity Supply for Northern Ireland, to certify as respects any quantity of electricity that—
- (a) the electricity has been produced in a fully exempt combined heat and power station;
 - (b) the electricity has been produced in a partly exempt combined heat and power station and supplied from the station without causing the limit referred to in paragraph 16(2) to be exceeded.
- (2) Regulations under this paragraph may provide that for any purposes of this Schedule (or any regulations made under it)—
- (a) electricity is not to be regarded as having been produced as specified in sub-paragraph (1)(a) unless it has been certified under that provision;
 - (b) electricity is not to be regarded as having been produced and supplied as specified in sub-paragraph (1)(b) unless it has been certified under that provision.
- (3) Regulations under this paragraph may in particular provide that the supply of any electricity does not qualify for the exemption under paragraph 16(2) unless the electricity is certified as specified in sub-paragraph (1)(b).
- (4) Regulations under this paragraph may also make provision for determining whether electricity is produced and supplied as specified in sub-paragraph (1)(b).]

Meaning of “utility”

- 150 (1) In this Schedule “utility” means an electricity utility or a gas utility.

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- (2) In this Schedule “electricity utility” means the holder of—
- (a) a licence under section 6(1)(d) of the ^{M2}Electricity Act 1989 (supply licences), or
 - (b) a licence under Article 10(1)(c) or (2) of the ^{M3}Electricity Supply (Northern Ireland) Order 1992,

except where the holder is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.

Until the coming into force of the substitution for section 6 of the ^{M4}Electricity Act 1989 provided for by the Utilities Act 2000, paragraph (a) above shall have effect as if the reference to section 6(1)(d) were to section 6(1)(c) or (2).

- (3) In this Schedule “gas utility” means the holder of—
- (a) a licence under section 7A(1) of the ^{M5}Gas Act 1986 (supply licences), or
 - (b) a licence under Article 8(1)(c) of the ^{M6}Gas (Northern Ireland) Order 1996,
- except where the holder is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.
- (4) Sub-paragraphs (1) to (3) have effect subject to—
- (a) any direction under paragraph 151(1), and
 - (b) any regulations under paragraph 151(2).

Marginal Citations

- M2** 1989 c. 29.
M3 S.I. 1992/231 (N.I. 1).
M4 2000 c. 27.
M5 1986 c. 44.
M6 S.I. 1996/275 (N.I. 2.)

Person treated as, or as not being, a utility

- 151 (1) The Commissioners may by direction (a “utility direction”) make, in respect of a person (or persons) specified in the direction, provision authorised by sub-paragraph (3).
- (2) The Treasury may by regulations (“utility regulations”) make, in respect of any person of a description specified in the regulations, provision authorised by sub-paragraph (3).
- (3) The provision authorised by this sub-paragraph is provision for—
- (a) a person who is an unregulated electricity supplier to be treated for levy purposes as being an electricity utility;
 - (b) a person who is an unregulated gas supplier to be treated for levy purposes as being a gas utility;
 - (c) a person who is an electricity utility to be treated for levy purposes as not being an electricity utility;
 - (d) a person who is a gas utility to be treated for levy purposes as not being a gas utility.

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- (4) References in sub-paragraph (3) to provision for a person to be treated in a particular way for “levy purposes” are to provision for him to be treated in that way for—
- (a) the purposes of this Schedule, or
 - (b) such of those purposes as are specified in the direction or regulations by which the provision is made.
- (5) The power to make any provision by a utility direction or utility regulations may be exercised so that the provision applies in relation to a person only to an extent specified in, or determined under, the direction or regulations.
- (6) A utility direction cannot take effect until it has been—
- (a) given by the Commissioners to each person in respect of whom it makes provision, and
 - (b) published by the Commissioners.
- (7) Paragraph 146(7)(b) and (c) applies to the power to make provision by a utility direction as to a power to make provision by regulations.
- (8) In this paragraph—
- “unregulated electricity supplier” means a person who—
- (a) makes supplies of electricity, and
 - (b) is not an electricity utility;
- “unregulated gas supplier” means a person who—
- (a) makes supplies of gas that is in a gaseous state and is of a kind supplied by a gas utility, and
 - (b) is not a gas utility.

Meaning of “auto-generator”

- 152 (1) In this Schedule “auto-generator” means a person who produces electricity if the electricity that he produces is primarily for his own consumption.
- (2) The Commissioners may by regulations specify requirements to be fulfilled before the electricity that a person produces is, for the purposes of sub-paragraph (1), to be taken as produced primarily for his own consumption.
- (3) For the purposes of this paragraph, electricity is for a person’s own consumption if it is for consumption by him or a person connected with him within the meaning of section 839 of the Taxes Act 1988.

Meaning of “levy due for an accounting period”

- 153 References in this Schedule, in relation to any accounting period, to levy due from any person for that period are references (subject to any regulations made by virtue of paragraph 41(2)(a)) to the levy for which that person is required, in accordance with regulations under paragraph 41, to account by reference to that period.

Meaning of “repayment of levy”

- 154 References in this Schedule to a repayment of levy or of an amount of levy are references to any repayment of an amount to any person by virtue of—
- (a) any tax credit regulations; or

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(b) paragraph 63, 87(3) or 110(3).

Interpretation of “in the course or furtherance of a business”s

- 155 (1) Anything done in connection with the termination or intended termination of a business shall, for the purposes of this Schedule, be treated as being done in the course or furtherance of the business.
- (2) Where in a disposition of a business as a going concern, or of its assets (whether or not in connection with its reorganisation or winding up), there is a supply of a taxable commodity, that supply shall for the purposes of this Schedule be taken to be made in the course or furtherance of the business.

Meaning of “resident in the United Kingdom”m

- 156 For the purposes of this Schedule a person is resident in the United Kingdom at any time if, at that time—
- (a) that person has an established place of business in the United Kingdom;
 - (b) that person has a usual place of residence in the United Kingdom; or
 - (c) that person is a firm or unincorporated body which (without having a relevant connection with the United Kingdom by virtue of paragraph (a)) has amongst its partners or members at least one individual with a usual place of residence in the United Kingdom.

References to the Gas and Electricity Markets Authority: transitional provision

- 157 (1) Until such time as a transfer of functions from the Director General of Electricity Supply to the Gas and Electricity Markets Authority (“the Authority”) has taken effect, references in paragraph 19 to the Authority shall be taken to be references to the Director General.
- (2) Until such time as all the functions of the Director General of Electricity Supply have been transferred in accordance with the ^{M7}Utilities Act 2000 (transfer to the Authority) or abolished, references to the Authority in paragraph 137 shall be taken to include the Director General.
- (3) Until such time as all the functions of the Director General of Gas Supply have been transferred in accordance with the Utilities Act 2000 (transfer to the Authority) or abolished, references to the Authority in paragraph 137 shall be taken to include the Director General.
- (4) The power conferred by paragraph 146(7) includes, in particular, power for regulations under paragraph 19 to make transitional provision in connection with the transfer of functions from the Director General of Electricity Supply to the Authority.

Marginal Citations

M7 2000 c. 27.

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